

## § 2.25

Ethics Official under the Office of Government Ethics regulations at 5 CFR part 2638.

(14) [Reserved]

(15) *Related to defense.* Provide internal administrative management and support services for the defense program of the Department.

(16) *Related to the Board of Contract Appeals.* Provide administrative supervision of the Board of Contract Appeals. No review by the Assistant Secretary for Administration of the merits of appeals or of decisions of the Board is authorized and the Board shall be the representative of the Secretary in such matters.

(17) *Related to budget and finance.* Exercise general financial and budget authority over all organizations assigned to the Assistant Secretary for Administration.

(18) *Related to historic preservation.* Administer the implementation of the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, Executive Order 11593, 3 CFR, 1971-1975 Comp., p. 559, and regulations of the Advisory Council on Historic preservation, 36 CFR part 800, for the Department of Agriculture with authority to name the Secretary's designee to the Advisory Council on Historic Preservation.

(19) *Related to interactions with American Indians.* Serve as the official with the principal responsibility for the implementation of Executive order 13175, including consultation and collaboration with tribal officials, and coordinate the Department's programs involving assistance to American Indians and Alaska Natives.

(20) *Relating to personnel security and the safeguarding of national security information:*

(i) Direct and administer USDA's personnel security and public trust programs established pursuant to Executive Order 12968, Access to Classified Information (3 CFR 1995 Comp. pp 391-402) and 5 CFR 731.

(ii) Manage the personnel security functions of the Department including programs for eligibility access determinations, obtaining security clearances for USDA employees, denial or revocation of access to national security information, and developing and promulgating policies and training.

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(iii) Direct and administer USDA's program under which information is safeguarded pursuant to Executive Order 12958, Classified National Security Information.

(iv) Establish Information Security (INFOSEC) policies and procedures for classifying, declassifying, safeguarding, and disposing of classified national security information and materials.

(v) Establish procedures under which authorized holders of information may challenge the classification of information believed to be improperly classified or unclassified.

(vi) Take corrective action for violations or infractions under section 5.7, par. (b), of Executive Order 12958.

(vii) Develop and maintain a secure facility for the receipt and safeguarding of classified material.

(viii) Coordinate security activities with the Chief Information Officer who has primary responsibility for PDD 63, Critical Infrastructure Assurance.

(b) The following authorities are reserved to the Secretary of Agriculture:

(1) *Related to human resources management.* Make final determinations in the following areas:

(i) Separation of employees for security reasons;

(ii) Restoration to duty of employees following suspension from duty for security reasons;

(iii) Reinstatement or restoration to duty or the employment of any person separated for security reasons; and

(iv) Issuance of temporary certificates to occupy sensitive positions.

(2) [Reserved]

[60 FR 56393, Nov. 8, 1995, as amended at 65 FR 12428, Mar. 9, 2000; 65 FR 77756, Dec. 13, 2000; 67 FR 65689, Oct. 28, 2002; 68 FR 27439, May 20, 2003]

### § 2.25 Assistant Secretary for Civil Rights.

(a) The following delegations of authority are made by the Secretary to the Assistant Secretary for Civil Rights:

(1) Provide overall leadership, coordination, and direction for the Department's programs of civil rights, including program delivery, compliance, and equal employment opportunity, with emphasis on the following:

(i) Actions to enforce Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibiting discrimination in Federally assisted programs.

(ii) Actions to enforce Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, prohibiting discrimination in Federal employment.

(iii) Actions to enforce Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, prohibiting discrimination on the basis of sex in USDA education programs and activities funded by the Department.

(iv) Actions to enforce the Age Discrimination Act of 1975, 42 U.S.C. 6102, prohibiting discrimination on the basis of age in USDA programs and activities funded by the Department.

(v) Actions to enforce Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA programs and activities funded by the Department.

(vi) Actions to enforce section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, prohibiting discrimination against individuals with disabilities in USDA conducted programs.

(vii) Actions to enforce Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12131, *et seq.*, prohibiting discrimination against individuals with disabilities in State and local government services.

(viii) Actions to enforce related Executive Orders, Congressional mandates, and other laws, rules, and regulations, as appropriate.

(ix) Actions to develop and implement the Department's Federal Women's Program.

(x) Actions to develop and implement the Department's Hispanic Employment Program.

(2) Evaluate Departmental agency programs, activities, and impact statements for civil rights concerns.

(3) Provide leadership and coordinate Departmental agencies and systems for targeting, collecting, analyzing, and evaluating program participation data and equal employment opportunity data.

(4) Provide leadership and coordinate Departmentwide programs of public notification regarding the availability of

USDA programs on a nondiscriminatory basis.

(5) Coordinate with the Department of Justice on matters relating to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, *et seq.*), and section 504 of Rehabilitation Act of 1973, as amended (29 U.S.C. 794), except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(6) Coordinate with the Department of Health and Human Services on matters relating to the Age Discrimination Act of 1975, 42 U.S.C. 6102, except those matters in litigation, including administrative enforcement actions, which shall be coordinated by the Office of the General Counsel.

(7) Order proceedings and hearings in the Department pursuant to §§15.9(e) and 15.86 of this title which concern consolidated or joint hearings within the Department or with other Federal departments and agencies.

(8) Order proceedings and hearings in the Department pursuant to §15.8 of this title after the program agency has advised the applicant or recipient of his or her failure to comply and has determined that compliance cannot be secured by voluntary means.

(9) Issue orders to give a notice of hearing or the opportunity to request a hearing pursuant to part 15 of this title; arrange for the designation of an Administrative Law Judge to preside over any such hearing; and determine whether the Administrative Law Judge so designated will make an initial decision or certify the record to the Secretary of Agriculture with his or her recommended findings and proposed action.

(10) Authorize the taking of action pursuant to §15.8(a) of this title relating to compliance by "other means authorized by law."

(11) Make determinations required by §15.8(d) of this title that compliance cannot be secured by voluntary means, and then take action, as appropriate.

(12) Make determinations, after legal sufficiency reviews by the Office of the General Counsel, that program complaint investigations performed under §15.6 of this title establish a proper

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basis for findings of discrimination, and that actions taken to correct such findings are adequate.

(13) Perform investigations and make final determinations, after legal sufficiency reviews by the Office of the General Counsel, on both the merits and required corrective action, as to complaints filed under part 15d of this title.

(14) Conduct investigations and compliance reviews Departmentwide.

(15) Develop regulations, plans, and procedures necessary to carry out the Department's civil rights programs, including the development, implementation, and coordination of Action Plans.

(16) Coordinate the Department's affirmative employment program, special emphasis programs, Federal Equal Opportunity Recruitment Program, equal employment opportunity evaluations, and development of policy.

(17) Provide liaison on equal employment opportunity programs and activities with the Equal Employment Opportunity Commission and the Office of Personal Management.

(18) Monitor, evaluate, and report on agency compliance with established policy and Executive Orders which further the participation of historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment in Departmental programs and activities.

(19) Is designated as the Department's Director of Equal Employment Opportunity with authority to perform the functions and responsibilities of that position under 29 CFR part 1614, including the authority to make changes in programs and procedures designed to eliminate discriminatory practices and improve the Department's program for Equal Employment Opportunity (EEO), to provide equal opportunity services for managers and employees, and to make final agency decisions, after legal sufficiency reviews by the Office of the General Counsel, on EEO complaints by Department employees or applicants for employment and order such corrective measures in such complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an em-

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ployee has been found to have engaged in a discriminatory practice.

(20) Maintain liaison with historically Black colleges and universities, the Hispanic-serving institutions, 1994 tribal land grant institutions, and other colleges and universities with substantial minority group enrollment, and assist Department agencies in strengthening such institutions by facilitating institutional participation in Department programs and activities and by encouraging minority students to pursue curricula that could lead to careers in the food and agricultural sciences.

(21) Administer the Department's EEO Program.

(22) Oversee and manage the EEO counseling function for the Department.

(23) Administer the discrimination appeals and complaints program for the Department, including all formal individual or group appeals, where the system provides for an avenue of redress to the Department level, Equal Employment Opportunity Commission, or other outside authority.

(24) Process formal EEO discrimination complaints by employees or applicants for employment.

(25) Investigate Department EEO and program discrimination complaints.

(26) Make final decisions, after legal sufficiency reviews by the Office of the General Counsel, or both EEO and program discrimination complaints, except in those cases where the Assistant Secretary has participated in the events that gave rise to the matter.

(27) Order such corrective measures in EEO complaints as may be considered necessary, including the recommendation for such disciplinary action as is warranted when an employee has been found to engage in a discriminatory practice.

(28) Provide liaison on EEO matters concerning complaints and appeals with the Department agencies and Department employees.

(29) Make final determinations, or enter into settlement agreements, after legal sufficiency reviews by the Office of the General Counsel, on discrimination complaints in conducted programs subject to the Equal Credit

Opportunity Act. This delegation includes the authority to make compensatory damage awards whether pursuant to a final determination or in a settlement agreement under the authority of the Equal Credit Opportunity Act and the authority to obligate agency funds, including CCC and FCIC funds to satisfy such an award.

(30) Require corrective action on findings on discrimination on program complaints and recommend to the Secretary that relief be granted under 7 U.S.C. 6998(d), notwithstanding the finality of National Appeals Divisions decisions.

(31) Make final determinations in proceedings under part 15f of this title where review of an administrative law judge decision is undertaken.

(32) Provide civil rights and equal employment opportunity support services, with authority to take actions required by law or regulation to perform such services for:

(i) The Secretary of Agriculture.

(ii) The general officers of the Department.

(iii) The offices and agencies reporting to the Assistant Secretary for Administration.

(iv) Any other offices or agencies of the Department as may be agreed.

[68 FR 27441, May 20, 2003]

#### Subpart D—Delegations of Authority to Other General Officers and Agency Heads

EDITORIAL NOTE: Nomenclature changes to subpart D appear at 60 FR 66713, Dec. 26, 1995.

##### § 2.26 Director, Office of the Executive Secretariat.

The following delegation of authority is made by the Secretary of Agriculture to the Director, Office of the Executive Secretariat: Responsible for all correspondence control and related records management functions for the Office of the Secretary.

##### § 2.27 Office of Administrative Law Judges.

(a) The following designations are made by the Secretary of Agriculture to the Office of Administrative Law Judges:

(1) Administrative law judges (formerly hearing examiners) are designated pursuant to 5 U.S.C. 556(b)(3) to hold hearings and perform related duties in proceedings subject to 5 U.S.C. 556 and 557, arising under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*); the Commodity Exchange Act as amended (7 U.S.C. 1 *et seq.*); the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a *et seq.*); the Federal Seed Act, as amended (7 U.S.C. 1551 *et seq.*); the (Laboratory) Animal Welfare Act, as amended (7 U.S.C. 2131 *et seq.*); the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 *et seq.*); the Forest Resources Conservation and Shortage Relief of 1990 (16 U.S.C. 630 *et seq.*); and any other acts providing for hearings to which the provisions of 5 U.S.C. 556 and 557, are applicable. Pursuant to the applicable rules of practice, the administrative law judges shall make initial decisions in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Such decisions shall become final without further proceedings unless there is an appeal to the Secretary by a party to the proceeding in accordance with the applicable rules of practice: Provided, however, that no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal. As used herein, "Secretary" means the Secretary of Agriculture, the Judicial Officer, or other officer or employee of the Department delegated, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-450g), and Reorganization Plan No. 2 of 1953 (5 U.S.C. App.), "regulatory functions" as that term is defined in the 1940 Act, in acting as final deciding officer in adjudication and rate proceedings subject to 5 U.S.C. 556 and 557. Administrative Law Judges are delegated authority to hold hearings and perform related duties as provided in the Rules of Practice Governing Cease and Desist Proceedings Under Section 2 of the Capper-Volstead Act, set forth in part 1, subpart I of this title.

(2) [Reserved]

(b) The Chief Administrative Law Judge is delegated the following administrative responsibilities subject to